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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 **DAVID HUNTER,**

Petitioner,

15
16 v.

17 **TOM FELKER, Warden,**

18 Respondent.
19

C 07-3292 MHP (PR)

**ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

20 Respondent provides this answer to the petition for writ of habeas corpus and order to
21 show cause issued in this matter:

22 **I.**
23 **CUSTODY**

24 Petitioner is presently in the lawful custody of the California Department of Corrections
25 and Rehabilitation pursuant to a judgment entered in Alameda County Superior Court in case
26 number No. CH34399A. On July 14, 2003, the jury convicted petitioner of assault with a firearm
27 and being a felon in possession of a firearm. The trial court sentenced petitioner to the total
28 determinate term of 14 years.

II.

TIMELINESS

The petition for writ of habeas corpus is timely within the meaning of 28 U.S.C. § 2244(d).

III.

EXHAUSTION

Petitioner has not exhausted state remedies as to his claim. Relief may be denied on the merits, however.

IV.

DENIAL OF CLAIMS

Respondent denies generally and specifically each and every allegation of the petition which could afford a basis for habeas corpus relief. Respondent further denies that petitioner has made any showing that the state appellate court's denial of his claims was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the United States Supreme Court, or was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding. Respondent specifically denies that the state supreme court unreasonably applied clearly established federal law when it rejected petitioner's claim of constitutionally inadequate notice of the charges against him.

V.

INCORPORATION OF MEMORANDUM OF POINTS AND AUTHORITIES

Respondent hereby incorporates into this answer and denial of claims the accompanying memorandum of points and authorities.

VI.

AVAILABLE STATE RECORDS

Pursuant to Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, respondent lodges the following state records:

Exhibit A Clerk's Transcript on Appeal.

Exhibit B Reporter's Transcript of Trial Proceedings.

1 Exhibit C Appellant's Opening Brief on Appeal.
2 Exhibit D Respondent's Brief on Appeal.
3 Exhibit E Appellant's Reply Brief on Appeal.
4 Exhibit F Opinion, California Court of Appeal, case number A108340.
5 Exhibit G Petition for Review, California Supreme Court.
6 Exhibit H Order, California Supreme Court, case number S141917.

7
8 **CONCLUSION**

9 Based on this answer, the accompanying memorandum of points and authorities, and the
10 exhibits lodged in support of this answer, respondent respectfully requests that the order to show
11 cause be discharged, and that the petition for writ of habeas corpus be denied.

12 Dated: April 8, 2008
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14 Respectfully submitted,
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